

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Eric Keaton

Write the full name of each plaintiff.

-against-

UNITED STATES

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

No **17CV195**

(To be filled out by Clerk's Office)

Tort
COMPLAINT
(Prisoner)

Do you want a jury trial?

☒ Yes ☐ No

Tort

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NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☒ Other: ^{United States} 14th Constitutional Rights State Constitution Civil Rights

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

<u>Eric</u>		<u>Keaton</u>
First Name	Middle Initial	Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

3601600027

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

G.R.V.C. 09-09 Hazen Street

Institutional Address

<u>East Elmhurst</u>	<u>N.Y.</u>	<u>11370</u>
County, City	State	Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☒ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

UNITED STATES

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

Defendant 2:

TREASURY

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

Defendant 3:

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

Defendant 4:

First Name

Last Name

Shield #

Current Job Title (or other identifying information)

Current Work Address

County, City

State

Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: At the north west corner of 8th Ave west 41st in the city of New York

Date(s) of occurrence: January 12, 2016

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

While Plaintiff Casually stand on the corner of West 42nd St
Conversing with another individual about some money old to me
from that individual we spoke about ten minutes, then he
left me and turned right in the downtown direction, and I
proceeded in to the Port Authority where I was stoped by officer
Jonathan Codeno, who detain me then took me to 41st & Ave where
he arrest me, without Warrant and/or probable cause for a crime
I never committed, Sale of a Control Substance and possession of
a control substance. The Plaintiff is being unlawfully detain at
Rikers Island for a crime I never committed. The defendants have
an extensive history of making these unlawful Narcotics Arrest
without probable cause in violative of Plaintiff's Fourth, Eighth, and
Fourteenth, Amendment Rights. The Plaintiff is in title to Due Process
of Law, A right that's enshrined in the Citizens Rule Book, which
become violative of his rights when the administrative officers of
the IZW try to seek a conviction that they know is Unconstitutional
which bring about Deliberate Indifference Cruel and Unusual Pun-
ishment. These violations are unconstitutional, involves interest that
rises to a depraved indifference carried out with out liberty, Justice.
These unlawful arrest are made in a predatory nature based on

acts that have nothing in common with the penal law, and Code. Plaintiff via court appearances contested and set forth the truth of the matter that rest upon deaf ears of defendant ADA Manhattan Supreme Court Part 21 and Judge, who continue to maliciously prosecute Plaintiff, and prolong his liberty interest. The eleventh amendment only safeguards defendants that act within the scope of their duties, not outside the lines of the majority of the Constitution. Plaintiff prosecution will be wreckless, arbitrary and capricious, and that shield of absolute immunity does apply in this for

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

As result of this unlawful arrest and imprisonment Plaintiff severely suffers from insomnia, nightmares, cold sweats, paranoia, of being killed in jail, from this unlawful act. Plaintiff continues to undergo episodes of experiencing heebies, auditory hallucinations, want and need for family, friends. To rebuild emotional strengthen with my self, I'm emotionally distorted, mentally, anguish, shame and humiliation

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

Plaintiff seeks Pain and Suffering Damages from each Defendant in their individual and official capacity in the amount of two million dollars. Plaintiff also seeks Emotional Stress and mental Anguish Damages from each Defendant in their individual capacity in the amount of two million dollars, and finally Plaintiff seeks Punitive Damages in the same capacity in the amount of three million dollars for a subtotal of 55, million dollars. Plaintiff also seeks an Injunction Relief so that no reprisal and or false arrests are made in the future by the Defendants Midtown South Narcotics Division and or Judge, Special Narcotics A.D.A, District Attorney, Correctional Facility and or Release for being unconstitutionally charged, from the exact Result of the Filing of this Complaint. Page 5

The Constitution, Supreme law of the land, shall be bound by Oath or Affirmation, to support this Constitution. People rights against illegal Search and Seizures shall not be violated, the constitution was created for the rights of all citizens. No person shall be held to answer for a Capital or otherwise infamous crime, but upon probable cause in court by Oath or Affirmation for a presentment and or indictment of a grand jury. No person shall be twice put in jeopardy for the same offense. In all criminal prosecutions the accused have right to a speedy trial, in the district court where the crime was committed upon probable cause in that court Plaintiff was unlawfully arrested and arraigned in court unconstitutionally in violation of my rights I was charged in a felony Complaint of Criminal Sale of a Controlled Substance and possession of a Controlled Substance unlawfully charged in violation of my fourth Amendment by Officers Ricardo Mantilla, and Jonathan Cedeno, A criminal offense by statute N.Y. Penal Law, constitutes an unauthorized act whenever such offense arises from and relates to the function of the perpetrators public office, and particularly so whenever such offense occurs while the public servant is on duty or for that matter whenever such offense occurs either directly or indirectly in the course of the public servants work employment or duty. A.D.A Erik J Aho, A prosecutor is specifically forbidden to institute cause to be instituted or maintain a criminal charge when he/she knows or it is obvious that the charge is not supported by probable cause (Rule 3.8^a) If he or she comes to know that a pending charge is not supported by probable cause he or she must act appropriately to dismiss or reduce the charge.

or advise a supervisor with the authority to do so regardless of who
 cause the charge to be instituted (Rule 5.2) the breadth of the term
 maintain and the objective component of 3.8^a (or should have known) high-
 light the importance of the initial screening process for charges or
 indictment in place District Attorneys Office as well as the ongoing review
 of charges by prosecutors familiar with and exercising substantial con-
 trol over each case. Moreover even with probable cause you must not pre-
 sent participate in present or threaten to present criminal charges so-
 ly to obtain an advantage in a civil matter Rule 3.4^e Fourteenth
 Article; guarantee equal protection of the laws No state shall make or
 enforce any law which shall abridge the privileges or immunities of
 citizens nor shall any state deprive any person of life, liberty or prop-
 erty without due process of law. The Plaintiff is being detain unlaw-
 fully. A malicious act is one that "begun" in malice without probable cause.
 If there is no probable cause in court there is no action unlawful arrest
 is unconstitutional False Arrest, False Imprisonment, Kidnapping, unlawful
 carrying away of a person against his or her will. Administration of
 Justice A court cannot compel one to answer for that offense in a cri-
 minal proceeding except upon probable cause based on an oath or affi-
 rmation Article 41 All executive and Judicial Officers both of the United
 States and of several states, shall be bound by oath or affirmation
 to support this Constitution. The general rule is that an unconstitutional
 statute, though having the form and name of law, is in reality no law, but is whol-
 ly void, and ineffective for any purpose. "No one is bound to obey an unconsti-
 tutional law and no courts are bound to enforce it"

Individual Charged with a misdemeanor or minor offense and held in a correctional facility have a constitutional right to be free from warrantless strip searches. I been strip searched numerous times 3/24/16 3/19/16 3/15/16 3/8/16 4/15/16 4/12/16 5/4/16 5/22/16 5/11/16 6/14/16 just to point a few this was with no regards for my rights and or police officers are suppose to seized or search upon probable cause oath or affirmation Nowhere does it say strip the person or spread your butt cheeks upon probable cause. These acts was dun in violation of my person and rights malicious, malfeasance, which are cruel and unusual Deliberate indifference Justice allow these cruel acts to be dun without more regard for that oath he sworn or the rights of the accused, total disregard of his duty as a Judge He neglect the exclusionary rule a Constitutional rule of law One who aids and abets another in the commission of a crime is a principal, A person concerned in the commission of a crime, whether he ~~directly~~ directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime is a principal. A public servant is guilty of official misconduct when, with intent to obtain a benefit or deprive another person of a benefit, He knowingly refrains from performing a duty which is imposed ~~him~~ upon him by law or is clearly inherent in the nature of his office. Im being held and or Kidnaped, in violation of The Bill of Rights, The conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, My Constitutional rights have been violated Article 4, 5, 6, 8, 9, 14,

1

N.Y. Criminal Proc. Law 140.45

Requires a local Criminal court to dismiss an accusatory instrument when it is facially insufficient. See N.Y. Crim. Pro. Law 100.40, and when the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument which is sufficient on its face. In the event that the pleading is defective, the ~~court~~ people are not ~~to~~ entitled to demand motion papers or an opportunity ~~to~~ to prepare a written response.

Furthermore N.Y. Crim. Proc. 140.45 ~~is~~

Does not, by its express terms, require any application by the defendant; there is no mention of any "motion". Instead the statute simply commands the court to dismiss when an instrument has been filed that is facially insufficient and the available facts reveal no possibility that the pleading can be reformed. Since the legislature did not see fit to state that a "motion" must be made before a judge can exercise his or her responsibilities under 140.45, it would be inappropriate for the court to supplement the statutory language by incorporating wholesale into this provision all of the procedures governing motion practice.

2

The procedure was instituted by a felony Complaint ~~in~~ indictment order returnable in court as information. C.P.L. 100.55, 100.50. The filing of a felony Complaint and the ~~and~~ the holding of a defendant for ~~jury~~ grand jury action are explicit statutory prerequisites for the waiver of indictment procedure. That is, not ~~only~~ must there be a Complaint, but the defendant must also have been held on that Complaint for the action of the grand jury. The mere pendency of the Complaint is not, under C.P.L. 195.10, sufficient. Where an indictment preceded any local criminal court disposition of the Complaint, the case never was held by local criminal court for the grand jury. In the instance case information was filed in criminal court, that means criminal court have preliminary and ~~trial~~ trial jurisdiction over the offense charged.

C.P.L. 210.05. This section limits the trial jurisdiction of Superior courts to offenses charged by grand jury indictment or by superior court information (the accusatory instrument utilized where indictment is waived pursuant to C.P. Article 195). Accordingly, although Superior courts have jurisdiction to try misdemeanors and petty offenses, as well as felonies, this section bars prosecution of those offenses in a Superior court where they are charged in an accusatory instrument other than an indictment or a superior court information — e.g. where charged by an information or a prosecutor's information. C.P.L. 100.05 200.10

3

If CPL 170.20 was on point in the instant case. The order of Chief Administrative Judge (22 NYCRR 142.3) Section 28 of article 6 of the New York State Constitution authorizes the Chief Judge of the Court of Appeals (and through her, the Chief Administrative Judge) to establish standards and administrative policies for general application throughout the state. Article 7-A of the Judiciary Law recognizes the broad administrative powers included in that constitutional authority. (See Judiciary Law 211, 212) Granted, article 6-30 of the New York State Constitution provides that ~~power~~ the power to regulate procedure in the court is "principally the function of the legislature. The order of the Chief Judge (22 NYCRR 142.3) does not run afoul of article 6-30 because it does not affect any rights of the defendant and is consistent with the law. It neither enlarges or abridges the defendant's rights, because the defendant will be afforded the same rights had the case not been transferred from the New York City Criminal Court to this court.

In weighing the law further, C.P.L. 210.05, legislation enacted that law to be constitutionally mandated: the legislature, is a sovereign power that law enacted is giving every presumption in favor of the constitutionality of a statute. Not to say Chief Judge does not possess the authority. Where of conflicting views are advanced every presumption goes to the constitutionality.

190.30 Grand Jury: rules of evidence except as otherwise provided in this section, the provisions of article sixty, governing rules of evidence and related matters with respect to criminal proceedings in general, are, where appropriate, applicable to grand jury proceedings. A report or a copy of a report made by a public servant or by a person employed by a public servant of agency who is a physicist, chemist, coroner, or medical examiner, firearms identification expert, scientific or professional field. No person within this state shall manufacture, obtain, possess, administer or dispense a controlled substance for purposes of scientific research, instruction or chemical analysis without having first obtained a license to do so from the department. License issued under this title shall be effective only for and shall specify: the name and address of the licensee; the nature of the project or projects permitted by the licensee; the nature of the controlled substance or substances to be used in the project, by name if in schedule 1, and by name or schedule or both if in any other schedule. 3324. The chemist who performed test did not actually attest to any personal knowledge regarding the substance seized. The chemist who signed the report tested the substance for the presence cocaine. The fact remains that the nonhearsay nature of the report is not clear on its face.

"The sound theory and policy of criminal procedure requires that only the regularly constituted officials upon whom the law devolves the power, may officiate in aid of the grand jury." The only way in which criminal action can commence in superior court is by a grand jury of an indictment, against a defendant who was never held by a local criminal court for action of such grand jury with respect to any charge contained in such indictment.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

7/13/16
 Dated Eric
 Plaintiff's Signature Eric Keaton
Keaton
 First Name Middle Initial Last Name
 G.R.V.C.
 Prison Address
 0909 Hazen St East Elmhurst N.Y. 11370
 County, City State Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 12/27/16

*Seen to before me this
24th day of December 2016*

RUTH MARCANO
 NOTARY PUBLIC-STATE OF NEW YORK
 No. 01MA5088836
 Qualified in Nassau County

My Commission Expires December 01, 2017